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February 18, 1998

HAND DELIVERED

Kathleen O'Brien Ham
Chief, Auctions & Industry Analysis Division
Federal Communications Commission
2025 M Street, N.W. - Room 5322
Washington, D.C. 20554

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FEB 18 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

re: Request for Delay of LMDS Auction (WTB Docket No. 92-297);

Dear Ms. O'Brien Ham,

This is to apprise the Commission that the bid processing delays which occurred today during the first round of the LMDS auction significantly distorted WinStar Communications, Inc.'s (WinStar) opening bid strategy, and, as a result, prompt WinStar to formally request that the Commission delay the remaining rounds of the LMDS auction unless and until the Commission is able to process bids in the order they are received, even if bids are submitted simultaneously by every auction participant. Without such safeguards, the defined and implicit rights of bidders participating in the auction will be fundamentally compromised.

For example, WinStar attempted today to be the first bidder, in the first round, for a selected block and Basic Trading Area (BTA) market. As noted in the enclosed chronology, despite submitting at 9:01:40 am, WinStar was initially prevented from registering its bid. Another entity registered the "first," and thus high, bid for that block in that market around 9:09 am. WinStar was forced to restart the process and on its second attempt its bid was finally registered at 9:48 am.

WinStar is concerned that if it attempts to submit the first, high bid in subsequent rounds, it could be prevented (presumably by bidding congestion at the FCC) from doing so due to system characteristics which: (1) discriminate against those entities submitting electronic bids (versus telephonic bids); and (2) fail to recognize the truly "first and highest" bidder for a particular block and BTA market.

Should you have any comments or questions concerning this request, please do not hesitate to contact the undersigned.

Sincerely,

Joseph M. Sandri, Jr.
AVP & Regulatory Counsel
WinStar Communications, Inc.

Enclosure

cc: Magalie Roman Salas, Secretary
Federal Communications Commission

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Winstar Communications, Inc.

No Recipient, Auction Chronology

To:
From: Joe Sandri <jsandri@winstar.com>
Subject: Auction Chronology
Cc:
Bcc:

>X-Sender: cz@mail.winstar.com
>Date: Wed, 18 Feb 1998 10:51:48 -0500
>To: jsandri
>From: CZ <cz@winstar.com>
>Subject: Auction Chronology
>
>Joe,
>
>Here is what happened this morning when
>Bill Friedman, Nick Garey and I tried to
>bid on behalf of WinStar:
>
>
>1) At 8:10 this morning we dialed into the system
>and put in our four passwords that allowed us to
>see the FCC screen that contains the options
>for messages, announcements, etc.
>
>2) At exactly 9:00 we pushed the bid button
>and immediately went to Market #321A and
>typed in Number 1 for the bid multiplier. We then hit
>the enter button and pushed the submit button.
>We got a message telling us that we were
>submitting a bid and did we really want to do that.
>We pushed "yes." We looked at the clock and noticed
>that the time was 9:01 and 40 seconds.
>
>3) Then we waited and waited and waited, watching
>the hour glass turn. We then called the hot line
>and when we were talking with them we got a database
>error message that popped up on the screen. The
>screen was completely frozen and we could not get
>rid of this error message. The person on the hotline
>told us to reboot, which we did.
>
>4) We then resubmitted our bid on New York, Block A,
>and got the hour glass spinning again. We waited for
>about 15 minutes, and then finally decided that we
>were going to submit a bid telephonically. We called
>the FCC telephone line but got a recording and waited
>for another 5 minutes to talk with a representative.
>Alan finally got on the line. He said that he was
>having the same problems we were in submitting bids,
>and that it was taking him 20 minutes to get a bid
>submitted.
>
>5) Since we had already waited almost 20 minutes,
>we continued waiting and finally got the screen
>that said our bid has been submitted. We then
>printed out the bid verification form showing that
>our bid was submitted at 9:48, 46 1/2 minutes after
>we first pushed the submit button.
>
>6) We called the hot line again and talked to Pete
>to express serious concern on two counts: First, we wanted to be
>the first (high) bidder so that we could sit out Round 2
>and wait to see what people were bidding. This
>is a strategic advantage which Pete and his supervisor
>(who we also talked with) discounted since they said
>we could bid in the next round. But bidding in the
>next round means raising our bid price. We may have

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>lost the opportunity to bid first in specific markets
>due to the need to re-boot, and thus lost the right
>promised in the auctions rules to be the first (high)
>bidder.
>
>7) This could happen in further rounds if two or more
>parties seek to become high bidder in a particular
>market and the first party to dial in is
>"frozen" and must reboot, because then while the first
>party is rebooting a second party might successfully dial
>in and submits the first high bid. As such, we are
>gravely concerned that the FCC is not ready to conduct
>this auction. They released a statement acknowledging technical
>difficulties, but the real concerns is that the system
>is not capable of handling many people bidding at once.
>That is NOT a temporary technical difficulty. It is structural.
>They need to delay the auction unless and until they are ready
>to process bids in the order they are received from every
>participant in the auction, including if those bids are
>received simultaneously.
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